

House File 2517 - Introduced

HOUSE FILE _____
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Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the protection of personal information,
2 specifying notice procedures following a breach of security,
3 and providing a penalty.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 6179YH 82
6 md/nh/5

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1 1 Section 1. NEW SECTION. 23.1 DEFINITIONS.
1 2 1. "Breach of security" means the unauthorized access and
1 3 acquisition of unencrypted or unredacted personal information
1 4 that compromises the security, confidentiality, or integrity
1 5 of an individual's personal information maintained by a person
1 6 and that causes, or the person reasonably believes has caused
1 7 or will cause, identity theft to the individual. Good faith
1 8 acquisition of personal information by a person or a person's
1 9 agent is not a breach of security, provided the personal
1 10 information is not used for or is not subject to further
1 11 unauthorized disclosure.
1 12 2. "Person" means any individual, partnership,
1 13 corporation, trust, estate, cooperative, association, other
1 14 entity, or government body as defined in section 22.1.
1 15 3. "Personal information" means an individual's first name
1 16 or first initial and last name in combination with any one or
1 17 more of the following data elements that relate to the
1 18 individual if neither the name nor the data elements are
1 19 encrypted, redacted, or otherwise altered by any method or
1 20 technology in such a manner that the name or data elements are
1 21 unreadable:
1 22 a. Social security number.
1 23 b. Driver's license number or other unique identification
1 24 number.
1 25 c. Financial account number, credit card number, or debit
1 26 card number in combination with any required security code,
1 27 access code, or password that would permit access to an
1 28 individual's financial account.
1 29 d. Unique electronic identifier or routing code, in
1 30 combination with any required security code, access code, or
1 31 password.
1 32 e. Unique biometric data, such as a fingerprint, voice
1 33 print or recording, retina or iris image, or other unique
1 34 physical representation or digital representation of the
1 35 biometric data.
2 1 4. "Record" means information that is inscribed on a
2 2 tangible medium, or that is stored in an electronic or other
2 3 medium and is retrievable in perceivable form.
2 4 5. "Redact" means alteration or truncation of data such
2 5 that no more than any of the following are accessible as part
2 6 of the personal information:
2 7 a. Five digits of a social security number.
2 8 b. The last four digits of any account or identification
2 9 number specified under subsection 3.
2 10 Sec. 2. NEW SECTION. 23.2 BREACH OF SECURITY == NOTICE.
2 11 1. a. A person that collects, maintains, licenses, or
2 12 processes a record containing personal information shall
2 13 disclose any breach of security to each affected individual
2 14 upon discovery of the breach of security. Notice of the

2 15 breach of security shall also be provided to an appropriate
2 16 law enforcement agency. Notice to the affected individual
2 17 shall be made in the most expedient time and manner possible
2 18 and without unreasonable delay, consistent with any measures
2 19 necessary to determine the scope of the breach of security and
2 20 with the legitimate needs of law enforcement as provided in
2 21 subsection 2.

2 22 b. If the affected individual is a minor, the person shall
2 23 provide notice to the minor's parent or guardian.

2 24 c. In the event that a person discovers circumstances
2 25 requiring notification pursuant to this section of more than
2 26 one thousand individuals at one time, the person shall also
2 27 notify, without unreasonable delay, all consumer reporting
2 28 agencies that compile and maintain files on individuals on a
2 29 nationwide basis, as defined by 15 U.S.C. } 1681a(p), of the
2 30 timing, distribution, and content of the notice provided to
2 31 the affected individuals.

2 32 d. A person that is regulated by state or federal law and
2 33 that maintains procedures for a breach of the security
2 34 pursuant to the rules, regulations, or guidelines established
2 35 by the person's state or federal regulator is deemed to be in
3 1 compliance with this section. This section shall not relieve
3 2 a person from a duty to comply with other requirements of
3 3 state or federal law regarding the protection and privacy of
3 4 personal information.

3 5 2. If requested by a law enforcement agency, the person
3 6 shall delay giving notice to the affected individual if notice
3 7 may impede a criminal investigation or endanger state or
3 8 national security. The request by a law enforcement agency
3 9 shall be in writing or documented in writing by the person.
3 10 After the law enforcement agency notifies the person that
3 11 notice of the breach of security will no longer impede the
3 12 investigation or endanger state or national security, the
3 13 person shall give notice to the affected individuals without
3 14 unreasonable delay.

3 15 Sec. 3. NEW SECTION. 23.3 FORM OF NOTICE.

3 16 1. Notice provided to an affected individual pursuant to
3 17 section 23.2 shall be clear and conspicuous and shall include
3 18 all of the following:

3 19 a. A description of the incident causing the breach of
3 20 security.

3 21 b. The type of personal information compromised by the
3 22 breach of security.

3 23 c. A description of any remedial action taken by the
3 24 person.

3 25 d. Contact information for the person with whom the
3 26 affected individual may communicate in order to receive
3 27 further information and assistance.

3 28 e. A statement advising the affected individual to
3 29 thoroughly and continually review financial account
3 30 information and credit reports.

3 31 2. Notice to an affected individual pursuant to section
3 32 23.2 shall be provided by at least one of the following:

3 33 a. Written notice to the affected individual's last
3 34 address of record.

3 35 b. Electronic mail notice, if the affected individual has
4 1 agreed to receive communications electronically from the
4 2 person.

4 3 c. Telephonic notice, if the communication is made
4 4 directly with the affected individual.

4 5 d. Substitute notice, if the person determines that the
4 6 cost of providing notice to all affected individuals under
4 7 paragraphs "a" through "c" exceeds one hundred thousand
4 8 dollars, that the number of affected individuals exceeds five
4 9 thousand, or that the person does not have sufficient contact
4 10 information needed to provide notice under paragraphs "a"
4 11 through "c". Substitute notice shall consist of any of the
4 12 following:

4 13 (1) Electronic mail notice.

4 14 (2) Conspicuous notice posted on the person's web site.

4 15 (3) Notification through local or statewide media.

4 16 Sec. 4. NEW SECTION. 23.4 ENFORCEMENT BY ATTORNEY
4 17 GENERAL == PENALTY.

4 18 1. A person, other than a government body, who violates
4 19 this chapter is subject to a civil penalty not to exceed ten
4 20 thousand dollars for each breach of security unless the person
4 21 is subject to a civil penalty for the same breach of security
4 22 under another provision of state or federal law.

4 23 2. The office of attorney general shall initiate an action
4 24 against a person who violates this chapter to enforce payment
4 25 of a civil penalty.

4 26 3. A civil penalty imposed under this section shall not
4 27 preclude a civil action filed by an affected individual.

4 28 EXPLANATION

4 29 This bill requires a person, as defined in the bill, that
4 30 collects, maintains, licenses, or processes a record
4 31 containing personal information to disclose any breach of
4 32 security to an affected individual upon discovery of the
4 33 breach. The bill also requires notice of the breach to be
4 34 provided to an appropriate law enforcement agency.

4 35 Disclosure of the breach of security shall be in the form
5 1 of notice and shall be made in the most expedient time and
5 2 manner possible. Notice shall also be consistent with any
5 3 measures necessary to determine the scope of the breach and
5 4 with the legitimate needs of law enforcement. The bill
5 5 provides that if requested by a law enforcement agency, the
5 6 person shall delay giving notice if doing so would impede a
5 7 criminal investigation or endanger state or national security.

5 8 The bill requires the notice provided to an affected
5 9 individual to be clear, conspicuous, and include a description
5 10 of the incident causing the breach, the type of personal
5 11 information compromised by the breach, a description of any
5 12 remedial action taken by the person, contact information where
5 13 the affected individual may call for further information and
5 14 assistance, and a statement advising the affected individual
5 15 to thoroughly and continually review financial account
5 16 information and credit reports.

5 17 The bill provides three methods by which notice may be
5 18 given. The three methods are written notice to the affected
5 19 individual's last address of record, electronic mail notice if
5 20 the affected individual has agreed to receive communications
5 21 electronically, and telephonic notice if the communication is
5 22 directly with the affected individual. The bill also provides
5 23 for substitute notice under certain specified circumstances.

5 24 If a breach of security affects more than 1,000
5 25 individuals, the bill requires the person to also notify all
5 26 consumer reporting agencies that compile and maintain files on
5 27 individuals on a nationwide basis, as defined by 15 U.S.C. }

5 28 1681a(p).
5 29 The bill imposes a civil penalty not to exceed \$10,000 for
5 30 each breach of security unless the person is subject to a
5 31 civil penalty under another provision of state or federal law
5 32 for the same breach of security. The bill exempts government
5 33 bodies from the civil penalty provisions established in new
5 34 Code section 23.4. A civil penalty imposed under the bill
5 35 does not preclude a civil action filed by an affected

6 1 individual.
6 2 LSB 6179YH 82
6 3 md/nh/5